

Boudreau, Paul E

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To: Burger, David

RELEASED IN FULL

Subject: RE: Bellinger on European Parliament vote re: CIA flights/renditions**From:** Nardi, Alessandro P**Sent:** Friday, February 16, 2007 1:44 AM

To: Adkins, Jessica L(Tallinn); Anderson, Jeffrey J (Valletta); Andrews, Theodore H; Bauman, Kirsten S; Beekman, Philip M; Boly, Richard C; Boughter, Edward T; Bowers, Stephanie L; Bowman, Sharon T; Canning, Mark A; Chase, Aaron U; Chiodi, Jason J; Christensen, Casey H; Cummings, Monica L; Delare, Thomas L; Draper, Mark; Dunham, Rebecca J; Enav, Cari R; Escobar, Gabriel; Espinoza, John L; Freden, Bradley; Galus, Peter P; Garro, Susan P; Gaudiosi, Eric V; Gedacht, Daniel C; Gorkowski, John; Grant, William K; Greaney, Brian E; Griesmer, Laura A; Haas, Peter D; Harrington, Matthew T; Heung, Jason; Hubler, Stephen A; Hyland, Colleen E; Kim, Julianna; Kollist, Ingrid M; Koumans, Mark; Lee, Peter H (Tallinn); Lewis, Glenn K; Libby, Mark W; Lundberg, Eric K; Macris, Gregory P; Marchant, Christian M; McNulty, James P; McNamara, John F; Merrill, Chris M; Messenger, Jane S; Mosser, Katrina S; Noll, George A; Norman, Alain G; Osborne, Matthew L; Pearce, David D; Perez, John A; Phillips, Gregory E; Potts, James H; Quinville, Robin S; Radivilova, Anna; Raman, Rebecca C(Tallinn); Reddy, Kathleen M; Robl, Terri L; Rodgers, John R; Schlaefel, David A; Schonander, Carl E; Schulz, Kirsten A; Selinger, Kirsten B; Selinger, Thomas B; Sullivan, Andrew W; Tanoue, Theodore X; Thome, Gregory D; Troje, Michael T; Walker, Peggy J; Waser, Tamir G; Young, Joseph M; Zimmerman, David M; Zuniga, Ricardo F

Cc: Chase, Peter H; Faucher, Robert J; Robinson, John G**Subject:** FW: Bellinger on European Parliament vote re: CIA flights/renditions

FYI. I know many of you at post are dealing with this issue or getting questions about it.

From: Davidson, Terry R**Sent:** Thursday, February 15, 2007 12:17 PM**To:** EUR-ERA-DL; EUR-PPD-DL; EUR-PPD-PAO-DL; EUR-PPD-IO-DL**Cc:** EUR-FO-DL; EUR-PGI-DL; EUR-Directors**Subject:** Bellinger on European Parliament vote re: CIA flights/renditions

Legal Advisor John Bellinger responded to Euro Parliament report yesterday afternoon in interview with BBC Washington's Adam Brookes. His points provide good guidance for how to talk to the report and issues related to renditions/flights in general. Clear for your use, sharing, posting... Terry

John Bellinger, Legal Advisor
With Adam Brookes, BBC
U.S. State Department; Washington, DC
February 14, 2007

BBC: The European Parliament has passed this report. It expresses considerable – it's an "outrage" report. What's your initial response to it?

Bellinger: Well, I think its wrong in law, wrong on the facts, utterly unbalanced, and really makes numerous outrageous allegations against the United States and Europeans.

BBC: Why is it wrong on the law?

Bellinger: Well, by suggesting, in fact, that all renditions are automatically illegal: I think one can certainly have a reasonable discussion about renditions, on the good and bad; when should they be used? But the suggestion here by sort of tarring renditions as always wrong, always illegal, I think is just not a high-quality document. And in fact, I think people around the world would say that if a terror suspect has gotten beyond the

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reach of normal legal processes, normal extradition relationships, that we shouldn't just let that person escape. That's why the United States and European countries have historically reached out to grab people who then could be brought back to face justice, or taken back to some other country where they can face justice.

BBC: I think the center of gravity and criticisms that have been leveled here is that these are people being transported through Europe outside any legal diplomatic process whatsoever. I mean, that is the defining characteristic of extraordinary renditions, isn't it?

Bellinger: Well any rendition, you generally reach out to grab someone because you can't get them through any other means. I mean, that's how the French got Carlos the Jackal, that's how we got numerous other people like the man who shot CIA employees in front of the CIA here. If you can't get them back through extradition or other legal means, you just don't let people escape. You use your intelligence services to get them to bring them elsewhere.

BBC: But this process that we are talking about and the European Parliament is talking about is about taking people to third countries for intelligence interrogations, not to face justice; correct?

Bellinger: Well, what they have done here is they have essentially suggested all renditions are wrong. I mean that's really what is wrong with this report. It is outrageous in the allegations and the proportions to which this is overblown in these issues. There are serious issues that can be talked about. But by suggesting, for example, that all 1,245 intelligence flights that they have identified are wrong or engaged in nefarious activities, something the Europeans need to be worried about, that's a really dangerous suggestion. There's never been any suggestion that any more than a handful of these flights might have been engaged in rendition.

BBC: Are you confident as the legal advisor to the Secretary of State that these renditions have been run according to the law or do you have particular areas of concern?

Bellinger: Well, I think that's a good question. Another problem with reports is that it focuses on events from four to five years ago. I think any country after it has been attacked, has 3,000 people murdered in an extremely short period of time, is going to respond fairly robustly. There has certainly been significant evolution in our laws, in our policies, in our practices over the last five years. Am I going to vouch for everything that is done five years ago? Was all perfectly done? These are difficult things that we went through a number of years ago. But what I can tell you is that we've got clear laws, policies, and practices in place today. We would not transfer someone to a country if we thought that it was likely that they would be mistreated.

BBC: But you do have concerns that four years ago, this could have taken place. Those laws were not in place. You do have concerns...

Bellinger: I'm not saying whether I personally have concerns or not. But I am saying is that this report by fixating on events of a number of years back and, more over, fixating on intelligence flights as a general matter suggesting that all intelligence flights are something we need to be universally concerned about, is really a dangerous thing that will undermine transatlantic cooperation. Intelligence flights are ways for us to share information, share people, and, frankly, if as the European Parliament suggests that we somehow need to restrict or condemn, which is exactly what they have done, all intelligence flights, I think that cooperation really is going to suffer.

BBC: When the CIA flights, specifically the ones that were carrying terrorist suspects, went through Europe, did the United States government inform the European governments involved?

Bellinger: Well, let me be clear, I'm not going to confirm or deny, nor is any U.S. government official going to confirm or deny any specific intelligence activities. That's the nature of intelligence activities; you don't confirm or deny them. But what we have done is said that we do think rendition, as a counterterrorism tool, is a useful thing. One of the problems with this report is that it seems to condemn all of them and suggest that they are illegal. We have said that any activities that we have conducted in Europe, we have done respecting the

sovereignty of our European allies. But we don't discuss specific activities in any country. I do think the report itself is hyperbolic in allegations that it makes against, not only the United States, but against countries in Europe. And I think that's evidenced by the fact that many, many of the members of the European Parliament voted against it; 256 members of Parliament voted against this report.

BBC: Would you accept the proposition that the way the United States has handled detentions in the War on Terror, not just renditions but detention policy across the border, has been a hindrance, has undermined America's standing and influence in the world?

Bellinger: It has certainly been controversial. This has been something the President has acknowledged, Secretary Rice has acknowledged. It is one reason that I have tried to make myself available to speak more about these issues because we understand the concerns that people have. One thing that we have tried to do is to explain that this is not just black and white. There not just easy answers that all detentions are bad, all renditions are bad. That there are nuances here, and we're willing to have that discussion here.

BBC: One might not be able to tap down some of that controversy, repair some of the damage, by coming clean now, particularly with your allies about what's gone on?

Bellinger: Well, the nature of intelligence activities and in intelligence cooperation is that you can't confirm or deny those kinds of activities. I can tell you the suggestions that we have snatched people off the streets from every European capital, from England to Portugal to Switzerland, is utterly ludicrous. We would love to do nothing more than to go around and say this is wrong, and this is wrong, and this is wrong. But, the nature of intelligence activities is that you just simply can't go around confirming or denying individual cases. Yes, it has certainly left the impression, because we do not deny individual allegations, that some of these things are true, and that is extremely troubling to us.

BBC: Mr. Bellinger, thank you very much.

Bellinger: Thank you very much.

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